

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

DUNKIN' DONUTS FRANCHISED
RESTAURANTS LLC, *et al.*,

Plaintiffs,

v.

TEJANY & TEJANY, INC., *et al.*,

Defendants.

C.A. No. 07cv6320

Judge Darrah

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs Dunkin' Donuts Franchised Restaurants LLC, DD IP Holder LLC, Baskin-Robbins Franchised Restaurants LLC, and BR IP Holder LLC hereby move for a preliminary injunction to enjoin Defendants -- Plaintiffs' former franchisees -- from their continued unauthorized use of Plaintiffs' proprietary marks and to require them to surrender to Plaintiffs possession of certain franchises pursuant to a Settlement Agreement between the parties.

Defendants have breached the Settlement Agreement between the parties by failing to fulfill their obligations under the Agreement to facilitate closing on the transfer of Defendants' shops to third party purchasers. Defendants have engaged in a pattern of obstruction and delay, and have generally failed to cooperate in the sale of the shops. All the while, Defendants continue to operate the franchises and reap the benefits of operating under Plaintiffs' trademarks. Pursuant to the Settlement Agreement, Defendants specifically agreed that in the event they breached their obligations under the Settlement Agreement Plaintiffs are entitled to specific performance of their obligation to transfer the shops to Plaintiffs.

On November 7, 2007, Plaintiffs sent Defendants a notice informing them that they were in breach of the Settlement Agreement, demanding that they immediately transfer possession of the shops to Plaintiffs as required by the Settlement Agreement, and that they cease using Plaintiffs' trademarks, trade names, and trade dress. Defendants have refused to comply. Accordingly, Plaintiffs seek an order requiring Defendants to surrender possession of their

franchises to Plaintiffs, and to bar Defendants from their continued unlicensed use of Plaintiffs' proprietary marks in violation of the Lanham Act, 15 U.S.C. §§ 1114 *et seq.*

Plaintiffs are likely to succeed on the merits of their claims, no adequate remedy at law exists, and Plaintiffs have been and will continue to be irreparably harmed without the requested relief. The balance of hardships weighs decisively in Plaintiffs' favor and the public interest would be advanced by the issuance of the requested injunction.

In support of this Motion, Plaintiffs rely on the accompanying Memorandum of Law, certifications and exhibits.

Plaintiffs request a hearing on this Motion.

Respectfully submitted,

/s/ Roger H. Stetson
W. Scott Porterfield
Roger H. Stetson
BARACK, FERRAZZANO, KIRSCHBAUM,
& NAGELBERG
200 West Madison Street
Suite 3900
Chicago, Illinois 60606
(312) 984-3100

Attorneys for Plaintiffs
Dunkin' Donuts Franchised Restaurants LLC,
DD IP Holder LLC,
Baskin-Robbins Franchised Shops LLC, and
BR IP Holder LLC

Robert L. Zisk
David E. Worthen
GRAY, PLANT, MOOTY, MOOTY
& BENNETT, P.A.
2600 Virginia Avenue, N.W.
Suite 1111
Washington, DC 20037
Telephone: (202) 295-2200
Facsimile: (202) 295-2250

Of Counsel

Dated: November 8, 2007